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**OFFICE OF PETITIONS**

In re Application of :  
Chang et al. : DECISION ON APPLICATION  
Application No. 10/604,343 : FOR  
Filed: July 14, 2003 : PATENT TERM ADJUSTMENT  
Attorney Docket No. 112.P14030:

This is a decision on the "Petition to the Director Under 37 CFR 1.181 - Application for Patent Term Adjustment Under 37 CFR 1.705(d)," filed February 16, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twenty-seven (27) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **twenty-seven (27)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 16, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On February 16, 2007, applicants timely submitted the instant application for patent term adjustment<sup>1</sup>. Applicants' basis for the application for patent term adjustment is the miscalculation of delay from the December 12, 2005 mailing date of the Final Rejection instead of from the proper May 31, 2005 mailing date of the Notice of Restarted Response Period. As applicants' response was filed on

<sup>1</sup> PALM records indicate that the Issue Payment was filed on February 16, 2007.

October 31, 2006, applicants assert that the total period of applicant delay should be 157 days, not 328 days<sup>2</sup>.

Applicants state that the application is not subject to a terminal disclaimer.

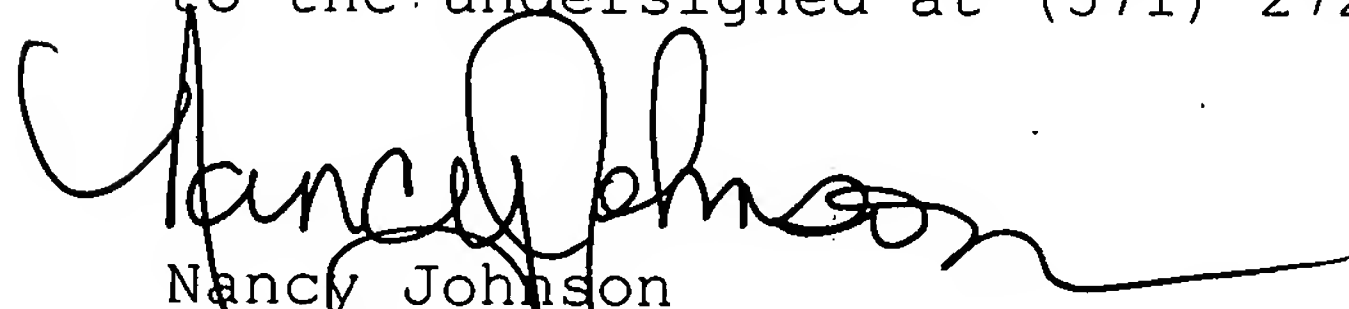
In this instance, applicants are correct. Any delay should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As applicants' response was received three months and 61 days after the Notice of Restarted Response Period, the period of applicant delay within the meaning of §1.704(b) is 61 days (i.e. September 1, 2006 to October 31, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 27 days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

  
Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

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<sup>2</sup> Applicants agree with the period of adjustment of 184 days for Office delay and the period of reduction of 96 days for applicant delay.